IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

APPEAL FROM ORDER NO.560 OF 2007

Abu Bakar Umar Memon : Appellant

(Orig. Plaintiff)

V/s.

Municipal Corporation of Greater Mumbai : Respondent

(Orig.Defendant)

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Mr.D.K.Dhakephalkar, Senior Advocate, with Ms Geeta Shastri i/b. Khilnani & Co., for the appellant.

Ms Geeta Jogalekar for the respondent.

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**CORAM : S.A.BOBDE, J.**

DATE : JULY 16, 2007.

**P.C**.

Heard.

Admit.

By consent, taken up for final hearing.

2. The appellant has challenged the order refusing ad-interim relief. There seems to be some confusion about the identity of the building. According to the appellant, the alleged unauthorised structure is in respect of a building called "Madina Mansion" which was earlier called

"Sunshine Building". It appears that the plan pertains to the structure which is in a building called "Madina". The purchaser has renamed that building after purchasing it. As stated earlier, it was earlier called "Sunshine Building". The Asstt. Commissioner has rejected the documents vide order dated 26.6.2007 on the ground that the documents do not show the authorisation of the structure under reference prior to datum line i.e. 1.4.1962. The reasons do not show why it is stated that the authorisation does not relate to the structure under reference. If the reason is the discrepancy in the name of the building as alleged by the appellant, that reason for rejection may not be valid. However, it is premature to conclude either way. In the circumstances, it would be appropriate, in the interest of justice, to direct the learned trial Court to decide the injunction application itself not later than six months from the date the parties appear before it. The parties are directed to appear on 25.7.2007. Pending decision, there shall be an interim protection of the structure.

3. The appeal stands disposed of accordingly.

4. In view of the disposal of the appeal, the Civil Application does not survive and the same stands disposed of.

S.A. BOBDE, J.